

No. 10-0310

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Aug 05, 2010
 LEONARD GREEN, Clerk

In re: VERTRUE INC. MARKETING AND
 SALES PRACTICES LITIGATION,

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ORDER

VERTRUE INC.; ADAPTIVE MARKETING
 LLC,

Petitioners.

Before: SILER, DAUGHTREY, and CLAY, Circuit Judges.

This multidistrict class litigation consolidated in the Northern District of Ohio concerns the defendants’ television sales and marketing practices. The district court denied the defendants’ motion to dismiss certain claims under the statute of limitations. In doing so, the court held that the decision in *Andrews v. Orr*, 851 F.2d 146 (6th Cir. 1988), did not prevent it from concluding that the statute of limitations had been tolled. The district court also decided an issue of apparent first impression with respect to 28 U.S.C. § 1367(d). Based upon the presence of these issues, the district court certified its decision for appeal under 28 U.S.C. § 1292(b) and stayed the litigation. The defendants seek permission to appeal. The plaintiffs oppose an appeal.

We may, in the exercise of discretion, permit an interlocutory appeal when a district judge has made a written certification that an order in a civil action “involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. § 1292(b); *see also In re City of Memphis*, 293 F.3d 345, 350 (6th Cir. 2002). In this case, these factors are

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present. The scope of the litigation depends in part on the resolution of issues relating to the statute of limitations, and the multidistrict nature of the litigation supports the judicial efficiency of a single appeal on the issue.

Therefore, the petition for permission to appeal is **GRANTED**. Upon docketing of the resulting appeal, the clerk is requested to promptly issue a briefing schedule.

ENTERED BY ORDER OF THE COURT



Clerk